

LEW LIBRARY
ARIZONA ATTORNEY GENERAL

CAINE
GREEN
MORRISON

September 25, 1958
Opinion No. 58-109

REQUESTED BY: Honorable Conrad James Carreon
House of Representatives

OPINION BY: ROBERT MORRISON, The Attorney General

QUESTION: After the primary election, is it possible for a person to become a candidate for the State Legislature on either the Democratic or Republican Party ticket in the general election where the party failed to nominate a candidate in the primary?

CONCLUSION: No.

The above question is directed to the procedure for nominating candidates for public office other than by primary election.

A.R.S. Sec. 16-503, entitled "Failure to nominate candidate in primary election", provides:

"If no candidate is nominated in the primary election for a particular office, then no candidate for that office for that party may appear on the general or special election ballot." (Emphasis supplied)

At the present time only the Democratic and Republican Parties have qualified under the provisions of Article 1, Chapter 2, Title 16, of the 1956 Arizona Revised Statutes, for representation as a political party on the official ballots of this State.

It is quite evident from the provisions of A.R.S. Sec. 16-503 that, if a candidate is not nominated in the primary election for a particular office for either the Democratic or the Republican Party, then no candidate for that office for that party may appear on the general election ballot.

The method and time for nominating candidates for public office other than by primary election is found at A.R.S. Sec. 16-601. Subsection A thereof reads as follows:

"Candidates for public office may be nominated otherwise than by primary election or by party committee in the manner set forth in this section."

A political party committee - that is, the Democratic or Republican Party Committee - may, having nominated a candidate in the

Honorable Conrad James Carreon
House of Representatives

September 25, 1958
Page Two

primary election, fill a vacancy thereafter only if it is caused by death, or incapacity, or withdrawal of a candidate. A.R.S. Sec. 16-604 states:

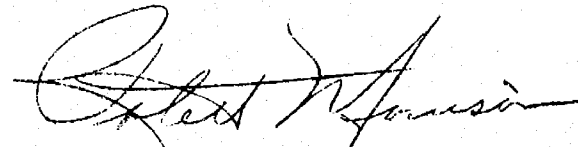
"A vacancy occurring due to death, mental incapacity or voluntary withdrawal of a candidate after a primary election may be filled by the political party committee of the state, county, city or town, as the case may be, by filing the name of the candidate to fill such vacancy with the officer with whom nomination petitions are filed at any time before the official ballots are printed."

In the light of A.R.S. Sec. 16-503, the language found in Subsection A of A.R.S. Sec. 16-601 does not apply to any political party which participated in the primary election.

This construction is supported by the provision found in Subsection E of A.R.S. Sec. 16-844, the pertinent part of which reads:

". . . The names of all candidates nominated under the provisions of § 16-601 shall be placed in a single column at the right of the party columns and shall bear the heading in bold-face type: 'Other candidates', and immediately under such heading the words: 'Vote separately for each office.' Immediately above the name of each candidate, in parentheses, shall be printed the designation prescribed in the candidate's certificate of nomination."

Therefore, the answer to your question is that a person cannot be nominated by or become a candidate of the Democratic or Republican Party after a primary where the party failed to nominate a candidate.



ROBERT MORRISON
The Attorney General